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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,522	06/08/2001	Robert D. Bushey	10010240-1	1432

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EXAMINER	
HARRELL, ROBERT B	

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/877,522	BUSHEY ET AL.	
	Examiner	Art Unit	
	Robert B. Harrell	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *see attached Office Action*.

1. Claims 1-20 are presented for examination.

2. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks ™, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

3. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on **http://portal.uspto.gov/external/portal/pair**)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of each reference are cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions, and those claims (i.e., claim 9 (last two lines)) reciting limitation as "one of" is treated as an "or" (as argued in the applicant's 12/10/2004 response on page 10 (lines 1-4 (line 2 "***or***"))) condition; in other words, if one of those limitation is addressed, the whole of that imitational clause has been addressed.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

5. Claims 1-20 are rejected under 35 U.S.C. 102 (e) as being anticipated by Anderson et al (US 6,680,749 B1); OR, in the alternative, as being anticipated by Anderson (6,222,538 B1). These are two specific rejections under 35 U.S.C. 102(e).

6. Per claim 1, Anderson (US 6,680,749 B1) taught an image capture appliance (e.g., see figure 1 (110) and col. 5 (lines 1-17)) configured for connection to a network (e.g., see col. 12 (lines 14-19)) and communication with a device connected to the network (e.g.,

see col. 12 (lines 14-19)(ie., to the device to which a digital image is sent), the appliance comprising:
a) a processing device (e.g., see figure 3 (344)) configured to control operation of the image capture appliance (e.g., see col. 5 (line 36) to col. 6 (line 33);
b) memory (e.g., see figure 3 (346 and/or 350 and/or 354)) including logic configured to receive software (e.g., see figure 12 (760)) via the network that facilitates communication between the image capture appliance and the device from a software source (e.g., see col. 12 (lines 14-19)); and,
a) a network interface device was anticipated such that the image capture appliance could communicate with the software source (e.g., see col. 12 (lines 14-19)) to obtain the software 760 when it became available.

7. Per claims 2 and 3, accepting application program 760 was an indication of approval for the application program by the user authorizing the updated application program 760.

8. Per claims 4,5,6,7, and 8 in order to obtain software 760 in figure 12, it was anticipated that the digital camera actively looked for and retrieved software from the software source (i.e., that which provided application program 760 via the network to the camera) from time to time as application programs were known to become obsolete in favor of more updated driver versions. Clearly, the download could not come to pass if the application program was not available.

9. Per claims 9,10,11,12,13,14,15,16,17,18,19, and 20 these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above.

10. Like Anderson (US 6,680,749 B1), Anderson (US 6,222,538) taught the same overall structure of the network programmable digital camera as the same per figures 1-5, of Anderson (US 6,222,538) with figures 1-5 Anderson (US 6,680,749 B1), and including programming the digital camera from a remote location over a network as covered in col. 10 (lines 40-49) in conjunction with figure 10 of (6,222,538 B1). Thus the grounds cited above also applies to Anderson (6,222,538 B1). Also, Anderson (US 6,222,538 B1) taught in figure 11, searching for system application program files and installing selected application programs for running on the digital camera. Since the user selected the application program, such a selection was an authorization to install and run the program.

11. In summary, each of the above cited Anderson reference, alone, taught of programming a digital camera which could be directly connected to a network (i.e., not via a Personal Computer and then to a network through a USB connection of the Personal Computer); in other words, a programmable network digital camera with direct connection to a network to load communications software from a software source via the network.

12. **The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this office action:**

a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102 (f) or (g) prior art under 35 U.S.C. 103.

14. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (US 6,680,749 B1) in view of Anderson et al. (US 6,567,122 B1); OR, Anderson et al (US 6,680,749 B1) in view of Anderson et al. (US 6,636,259 B1). OR, Anderson (US 6,222,538 B1) in view of Anderson et al. (US 6,567,122 B1); OR, Anderson (US 6,222,538 B1) in view of Anderson et al. (US 6,636,259 B1).
These are four specific rejections under 35 U.S.C. 103(a).

15. Per claims 1-20, that which was anticipated was obvious and thus the reasoning cited above continues herein and below as standing obvious.

16. Per claim 9, and those like with respect to direct connection to a network, while Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) did not specifically put pen to paper reciting specific wordage that his network programmable digital camera image capture device was "configured for direct connection to a network", as indicated above, it was anticipated from col. 12 (lines 14-19) in Anderson (US 6,680,749 B1) and Anderson (US 6,222,538 B1) col. 10 (lines 40-49) that the camera was directly connected to the network since each reference also provided a direct connection to a host computer (i.e., Personal Computer via USB) as an alternative which logically implies an alternative direct connection to a network not through the host computer but rather the camera was directly connected to a network via a network interface; and, thus with connection to a host computer as one of two options, receiving the application program directly from the network was obvious since a direct connection to a network was one of the two options which included direct connection to the host computer (Personal Computer via USB). In other words, since one option was to obtain the application program from the host computer and the other from the network, the one from the network must not include the one from the host computer else it too would be from the host computer and thus no second option. Thus connecting the network programmable digital camera image capture device directly to the network via a network interface was obvious to those skilled in the art. Nonetheless, the same type camera covered by Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) was also covered by Anderson (US 6,567,122 B1) as

shown in figures 1-5B as identical to those of figures 1-5B of Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) figures 1-5 and described in Anderson (US 6,636,259 B1). That is, Anderson (US 6,567,122 B1) or Anderson (US 6,636,259 B1) modified the network programmable digital camera as covered in Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) for direct connection to a network. Since the inventor himself made the modification, such a modification would have been obvious to those skilled in the art such as Anderson himself.

17. It would have been obvious to one skilled in the network programmable digital camera data processing art to have combined the teachings of these references, as indicated above, because they each were directed toward the problem of directly connecting a network programmable digital camera to a network. Also, since Anderson (US 6,567,122 B1) or Anderson (US 6,636,259) post dated Anderson (US 6,680,749 B1), it would have been obvious to those skilled in the art to implement the Web Server application program in Anderson (US 6,567,122 B1) or Anderson (US 6,636,259 B1) as the application program 760 in Anderson (US 6,680,749 B1). Furthermore, each of the reference had the same inventor. The same logic holds for Anderson (US 6,222,538 B1) in view of either Anderson (US 6,567,122 B1) or Anderson (US 6,636,259 B1). That is, loading, from the network, the Web Server application program of either Anderson (US 6,567,122 B1) or Anderson (US 6,636,259 B1) as the alternative application program in either Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) would have included the required communication software to allow the digital camera to communicate with another device on the network using HTML and TCP/IP.

18. Anderson et al. (US 6,567,122 B1) or Anderson (US 6,636,259 B1) taught a programmable digital camera, of the exact same type as covered in Anderson et al (US 6,680,749 B1) or Anderson (US 6,222,538 B1), directly connected to a network not via a Personal Computer (i.e., digital camera connected via USB to a Personal Computer which Personal Computer was then connected to a network). Thus communication application software could obviously be obtained via a direct network connection to the digital camera with no Personal Computer in-between for this type of digital camera in Anderson et al (US 6,680,749 B1) or Anderson (US 6,222,538 B1). Also, since Anderson (US 6,680,749 B1) or Anderson (US 6,222,538 B1) did not recite a communication Web Sever application program as in either Anderson (US 6,567,122 B1) or Anderson et al. (US 6,636,259 B1), it was obvious to those skilled in the art to view such Web Server application programs as the downloaded application program 760 of Anderson (US 6,680,749 B1) or downloaded program script of Anderson (US 6,222,538 B1).

19. In all, and in summary, the camera of Anderson could be a stand-alone digital camera that could obtain communication software directly from a network.

20. The applicant's remarks, filed 12/10/2004 with respect to claims rejected under 35 U.S.C. 102(e), have been full considered but deemed moot in view of the new rejections and/or new grounds of rejection as recited above.

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (571) 272-3896 . The fax phone number for all papers is (703) 872-9306.

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142